

pg 4



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/922,487	08/03/2001	Christopher I. Halliday		7011

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Christina M. Halliday
59 Windsor Place
Collegeville, PA 19426

EXAMINER

BATES, KEVIN T

ART UNIT PAPER NUMBER

2155

DATE MAILED: 12/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/922,487

Applicant(s)

HALLIDAY, CHRISTOPHER I.

Examiner

Kevin Bates

Art Unit

2155

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 41-75 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 41-75 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/03)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

This Office Action is in response to a communication made on May 11, 2004.

Preliminary Amendments were received on November 13, 2001, September 3, 2003, April 21, 2004, and May 11, 2004.

The Information Disclosure Statements were received on July 21, 2003, September 7, 2004, and October 14, 2004.

Claims 41 – 75 are pending in this application.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 41-43, 45, 52-53, 61-64, 66-69, and 71-75 are rejected under 35 U.S.C. 102(e) as being anticipated by Robbins (6317882).

Regarding claim 41, Robbins discloses a method of customizing a selection of selecting a station among a plurality of stations (Column 11, lines 12 – 31), comprising the steps of: receiving a plurality of stations (Column 11, lines 29 – 31), each station comprising a digitally encoded stream containing designations representative of a work of authorship over a global communication network, said global communication network having a plurality of stations; decoding a selected station from among the plurality of

Art Unit: 2155

stations (Column 11, lines 13 – 22); comparing the decoded station with a user designated work of authorship to determine an indication that the user designated work of authorship is contained in the decoded station (Column 5, line 62 – Column 6, line 10); and alerting a user to a station that contains the user designated work of authorship (Column 5, lines 20 – 28).

Regarding claim 42, Robbins discloses that the step of comparing the decoded station with a user designated work of authorship further comprises the step of storing the designation representative of a work of authorship of the decoded station in a memory (Column 6, lines 43 – 51).

Regarding claims 43 and 52, Robbins discloses a method of selecting an audio or video digital broadcast among two or more audio or video digital broadcasts (Column 11, lines 12 – 31), comprising the steps of: receiving a digitally encoded stream of at least two broadcast stations over a global communication network (Column 11, lines 29 – 31), wherein at least one broadcast station from the broadcast stations contains a station designation of a work of authorship as an indication of a work of authorship contained in a signal from the broadcast station; decoding a broadcast station; providing a user designation of a work of authorship (Column 11, lines 13 – 22); storing the user designation of a work of authorship in a memory (Column 4, lines 15 – 19); comparing the user designation of a work of authorship with the station designation of a work of authorship at 0.01 second to 3 minute intervals (Column 5, line 62 – Column 6, line 10); alerting a user of desired content if a user designation of a work of authorship matches a station designation of a work of authorship (Column 6, lines 17 – 24).

Regarding claim 45, Robbins discloses the steps of providing and recording desired content (Column 6, lines 4 – 10).

Regarding claim 53, Robbins discloses a recording media for recording the user desired work of authorship in real time as it is provided over the global communication network (Column 6, lines 4 – 10).

Regarding claim 61, Robbins discloses a method of selecting a radio channel (Column 11, lines 12 – 31), comprising the steps of: receiving one or more digital radio channels (Column 11, lines 29 – 31); comparing information on one or more of the received digital radio channels with a user designated work of authorship to determine whether the user designated work of authorship is or will be playing on one or more of the digital radio channels; and alerting a user to a radio channel that is or will be playing the user designated work of authorship (Column 6, lines 17 – 24).

Regarding claim 62, Robbins discloses the step of decoding a radio channel from among the one or more digital radio channels (Column 11, lines 12 – 20).

Regarding claim 63, Robbins discloses that the information compared with the user designated work of authorship is information from the decoded radio channel (Column 11, lines 12 – 20).

Regarding claim 64, Robbins discloses that the information on the one or more radio channels comprises data indicating the particular work of authorship that is or will be playing on one or more of the digital radio channels (Column 11, lines 12 – 20).

Regarding claim 66, Robbins discloses a method of customizing the selection of channels among a plurality channels (Column 11, lines 12 – 31), comprising the steps

Art Unit: 2155

of: receiving a digitally encoded bit stream over-the-air on the plurality of channels (Column 11, lines 29 – 31), wherein the digitally encoded bit stream contains descriptors representative of the content on at least a portion of the plurality of channels; decoding a selected channel among the plurality of channels (Column 11, lines 13 – 22); selectively tagging a desired type of content associated with descriptors on the selected channel (Column 5, lines 63 – 66); analyzing a broadcast information channel or an Electronic Program Guide for an indication of content of the desired type among the plurality of channels; and alerting a user of a desired channel containing the indication (Column 6, lines 17 – 24).

Regarding claim 67, Robbins discloses the step of storing descriptors representative of the content on the selected channel in a memory (Column 4, lines 15 – 20).

Regarding claim 68, Robbins discloses the step of comparing descriptors of content for at least a portion of the plurality of channels in the broadcast information channel with the descriptor stored in memory (Column 6, lines 17 – 24).

Regarding claim 69, Robbins discloses the step of audibly alerting a user as a prompt to enter an input to selectively obtain the desired channel in real time (Column 5, lines 25 – 29).

Regarding claim 72, Robbins discloses the step of alerting comprises the step of automatically selecting the desired channel without any user input (Column 6, lines 5 – 6).

Regarding claim 71, Robbins discloses the step of selecting the desired channel by a single user input (Column 37, lines 26 – 29).

Regarding claim 73, Robbins discloses the single user input is a single button press (Column 37, lines 26 – 29).

Regarding claim 74, Robbins discloses a receiver, comprising: a mobile general purpose computer adapted to receive one or more broadcast channels (Column 3, line 66 – Column 4, line 3), the general purpose computer also receiving data indicating what is being played on each channel (Column 4, lines 15 – 19); wherein the general purpose computer includes a memory, the memory includes a playlist of user designated works of authorship and the general purpose computer is adapted to change channels to a specific broadcast channel if the data indicating what is being played on any channel matches a user request designated work in the playlist (Column 6, lines 17 – 24).

Regarding claim 75, Robbins discloses a method of selecting a radio channel, comprising the steps of: using a receiver to receive one or more digital radio channels and data wherein the data indicates what work of authorship is being played on the one or more digital radio channels (Column 11, lines 29 – 31); inputting a designation of a desired work of authorship into a memory of a general purpose computer (Column 5, lines 63 – 66), wherein the general purpose computer monitors the data received by the receiver; using the general purpose computer to monitor the data; receiving an alert when the data matches the input designation of the desired work of authorship

indicating that the desired work of authorship is being played on one or more of the digital radio channels (Column 6, lines 17 – 24).

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 44, 47-48, 50-51, 54-56, 58, 65, and 70 are rejected under 35 U.S.C. 103(a) as being unpatentable over Robbins in view of Wugofski (6507951).

Regarding claims 44, 54, and 65, Robbins does not explicitly that the global communication network is a satellite audio radio network. Wugofski discloses a time shifting system that combines many forms of media communication including audio/video satellite broadcasts (Column 4, lines 39 – 49). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Wugofski's teachings of combining many types of audio/video network communications in order to allow many types of communications to converge into one system, thus reducing the number of devices and connections that users have to keep track of (Column 2, lines 1 – 16).

Regarding claim 56, Robbins in combination with Wugofski discloses that the recording media includes a hard drive, and/or a floppy drive, and/or an optical drive (Wugofski, Column 4, lines 22 – 24).

Regarding claim 47, Robbins discloses that the station designation of a work of authorship is provided to the user prior to a broadcast of the work of authorship (Column 6, lines 17 – 24).

Regarding claim 48 and 58, Robbins discloses that the work of authorship is selected from a group comprising songs, books, movies, movie shorts, educational works, sports events (Column 6, lines 57 – 59).

Regarding claim 50, Robbins discloses that the user has the ability to listen to the work of authorship (Column 3, line 66 – Column 4, line 3).

Regarding claim 51 and 60, Robbins discloses the step of selectively storing the user designation of a work of authorship in a memory comprises saving work of authorship, in real-time, as the work of authorship is received (Column 6, lines 8 – 10).

Regarding claim 55, Robbins discloses a recording media for recording the user desired work of authorship in real time as it is provided over the global communication network (Column 6, lines 8 – 10).

Regarding claim 70, Robbins in combination with Wugofski discloses that the digitally encoded bit stream is a satellite digital audio radio signal (Wugofski, Column 4, lines 39 – 49) containing the plurality of channels received on a single tuner (Robbins, Column 31, lines 62 – 67).

Claim 46 is rejected under 35 U.S.C. 103(a) as being unpatentable over Robbins in view of Barton (6233389).

Regarding claim 46, Robbins does not explicitly indicate that the desired content is recorded in a MPEG or .WAV format. Barton discloses a data stream recording device that stores data in MPEG format (Column 2, lines 10 – 14). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Barton's teaching in Robbin's system in order to allow good compression with the data

being stored, while allowing the user to be able to simultaneously view or listen to the data that is being stored (Column 1, lines 63 – 67).

Claim 57 is rejected under 35 U.S.C. 103(a) as being unpatentable over Robbins in view of Wogufski as applied to claims 44, 47-48, 50-51, 54-56, 58, 65, and 70 above, and further in view of Barton.

Regarding claim 47, Robbins does not explicitly indicate that the desired content is recorded in a MPEG or .WAV format. Barton discloses a data stream recording device that stores data in MPEG format (Column 2, lines 10 – 14). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Barton's teaching in Robbins's system in order to allow good compression with the data being stored, while allowing the user to be able to simultaneously view or listen to the data that is being stored (Column 1, lines 63 – 67).

Claims 49 and 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Robbins in view of Wogufski as applied to claims 44, 47-48, 50-51, 54-56, 58, 65, and 70 above, and further in view of Wall (6055244).

Regarding claims 49 and 59, Robbins does not explicitly indicate that the designation of a work of authorship is selected from the group comprising titles, segments of titles, key phrases and key words. Wall discloses a radio data stream that includes an identifier which includes titles and other information (Figure 8; Column 4, lines 43 – 64)). It would have obvious to one of ordinary skill in the art at the time the invention was made to use Wall's teaching of data stream identifiers in Robbins system in order to have a more descriptive identifier contained with in the stream to display and

Art Unit: 2155

inform the user in English what program he is listening to or reserving to record (Column 1, lines 31 – 42).

Prior Art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U. S. Patent No. 6215526 issued to Barton because it discloses time warping and encoding data streams.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Bates whose telephone number is (571) 272-3980. The examiner can normally be reached on 8 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain Alam can be reached on (571) 272-3978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Application/Control Number: 09/922,487

Page 11

Art Unit: 2155

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December 2, 2004



HOSAIN ALAM

TECHNICAL PATENT EXAMINER